

Purpose: For Decision



## Committee report

Committee	<b>CABINET</b>
Date	<b>TUESDAY, 13 AUGUST 2013</b>
Title	<b>POSSIBLE SALE OF THE FORMER SANDHAM BANDSTAND, CULVER PARADE, SANDOWN</b>
Report to	<b>THE CABINET MEMBER FOR RESOURCES</b>

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### EXECUTIVE SUMMARY

1. This report seeks members' approval to conclude the disposal of a long leasehold interest (125 years) in the former Sandham Bandstand, Culver Parade, Sandown.

### CONFIDENTIAL/EXEMPT ITEMS

2. The appendix is confidential and is exempt by virtue of Paragraph 3 of Part 1 of Section 12A of the Local Government Act 1972 because it 'relates to financial or business affairs of any particular person'. In this case it comprises the offers to purchase the property. If this was made publicly available it may prejudice the council's position if any of the bidders chose to renegotiate their offer, as they would have knowledge of the other offers received.

### REASONS FOR URGENCY

3. This decision has not previously appeared on the forward plan as it was not due to be taken as a Cabinet or Cabinet Member Delegated Decision on the basis of the valuation of the site. The council's desire to take more transparent decisions in relation to the use and disposal of property however, requires that this decision is now taken by the Cabinet.
4. The prospective purchaser has drawn down funds in order to acquire the site on the basis of the council's previous approach to the disposal of assets of this value. It is incurring interest charges on the capital it has borrowed to fund its acquisition of the site and its costs are therefore increasing for as long as the council does not complete on the sale. An urgent decision including the disapplication of call in is required to prevent the prospective purchaser incurring these costs and seeking recompense from the council as a result.

5. The chairman of the Overview and Scrutiny Committee has been consulted on this report and the reason for the urgent decision which he considers are legitimate and has agreed that call-in can be dispensed. He has also commented that, "he is disappointed that this decision needs to be made urgently, but understands the reason why".

## BACKGROUND

6. Sandham bandstand has not been used for council purposes for some 15 – 20 years, with its most recent use being for limited storage purposes until approximately two years ago. As the building was no longer required for council use, in 2011 Commercial Services declared it surplus to requirements.
7. The building itself is in a poor condition and has been supported with scaffolding for a number of years. It is however on a good location on the seafront and any investment in the premises may improve the overall standard of the public realm in the area.
8. Marketing of a long (125 years) leasehold disposal of the site commenced in September 2012, culminating in five compliant bids being received by the council as set out in the confidential appendix. There were no conditions placed on the possible or future use of the site as part of the disposal process.
9. The highest offer received for the bandstand site was supported with proof of funds from the proposed purchaser. A leasehold sale was therefore agreed subject to the council's approval. There are no other conditions attached to the proposed purchaser's offer.
10. The offers in the appendix have been received on the basis of the use of the site being in accordance with its current planning permission. No alternative planning permissions have been sought by the council for the site.
11. Part of the former Sandham bandstand is under the control of Sandown Town Council as it funded and constructed a small extension to the site some ten years ago. This provided an additional bandstand facility in Sandham Gardens itself when the other facility had been at the same level as the road along Culver Parade.
12. The town council is aware of the council's proposed disposal of the site and has accepted the principle of the sale provided that a proportion of the capital receipt received by the council is paid to it in recognition of the loss of the amenity which it provided and funded. In addition the council will also need to fund the town council's professional fees associated with the sale.

## STRATEGIC CONTEXT

13. The disposal of the site was identified in the council's current Strategic Asset Management Plan, approved in 2011 and will support the council's objective to deliver budget savings through changed service provision and the Framework for Change aspiration to improve cost effectiveness of service delivery.
14. If this property is disposed of it will release a capital receipt into the council's corporate account to support the council's current capital works programme.

## CONSULTATION

15. Sandown Town Council is aware of the proposals to dispose of the bandstand and has not raised any objections to the proposal. It will benefit from a small capital receipt as a result of its interest in the property and can see that an investment in the site will help to raise the standards of the public realm in the area. This is something it has been actively pursuing for a number of years and it has itself invested in improving Sandham Gardens to this end
16. The member for Sandown north has commented that he fully supports the sale as the bandstand is a serious eyesore in an area which has otherwise benefitted from substantial investment by Sandown Town Council; the member for Sandown south has commented that he has no objection to the disposal. In his view the site has been an eyesore on Sandown seafront for many years and he therefore welcomes the opportunity to get the building renovated.

## FINANCIAL / BUDGET IMPLICATIONS

17. If the recommendations made in this report are adopted, the council will benefit from a capital receipt as a contribution to its overall capital spending plans. In order to achieve this receipt the council will have to pay £10,000 to Sandown Town Council in recognition of its previous interest in the property plus the costs of its professional fees associated with the sale. These costs will be funded from the capital receipt for the sale.
18. In recent years the council has not received any rental income from the bandstand therefore the sale will not result in any loss of revenue income from to the council. It will however save on the current revenue costs of maintaining a vacant site including the rates and insurance costs plus any repair liabilities.

## CARBON EMISSIONS

19. Disposal of this property does not have any carbon implications as the site has been out of use for a number of years and consequently has not been consuming any energy.

## LEGAL IMPLICATIONS

20. The council currently holds the property on a freehold basis. Once a sale has been completed the council will continue to have an interest as the landlord of the property and will need to ensure that the tenant complies with the terms of its lease at all times.
21. Section 123 of the Local Government Act 1972 allows the council to dispose of land for 'best consideration'. Best consideration is not limited to the highest achievable price, but can also include the value of other economic or social benefits particularly where these further the council's corporate objectives.

## EQUALITY AND DIVERSITY

22. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote

equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The proposal in this report has no direct impact on those with protected characteristics.

## OPTIONS

23. The following options are offered for members' consideration:-
- (a) Dispose of the property on a 125 year lease to the party which is in the strongest position to proceed (as set out in the appendix)
  - (b) Continue to market the property for a longer period in the in the hope of achieving a higher capital receipt.
  - (c) End the current disposal process for the property and seek viable proposals from the community for its future use at nil cost to the council.
  - (d) Retain ownership of the property, and use it for council purposes.
  - (e) Disapply the provisions of "Call In"

## RISK MANAGEMENT

24. If the council does not proceed with the disposal of the former Sandham bandstand there is a risk that it will not be able to attract an alternative proposal that provides a capital receipt of at least the same amount as that currently being offered. The council has followed a robust marketing route to secure this offer which has included confirmation into the funding method/ability of the proposed tenant.
25. There is a risk that if the council were to consider extending the marketing period for the property then the proposed purchaser may withdraw from the process altogether. Advice from the council's marketing agents is that, given the level of exposure of the property to the market to date, it is unlikely that a better offer would be received. There is also a risk that in taking this course of action the council may ultimately end up with a lower offer than at present, particularly in light of the potential for continued falls in the property market.
26. If the council is not able to conclude the leasehold sale of the site to the proposed purchaser on the agreed terms there is a risk that it will take action to recover all of its abortive costs associated with its acquisition from the council. There is no current budget provision to meet any such costs.
27. Any proposals to take over and manage the site for the benefit of the local community will take some time to develop and be considered by the council. In that time there is a risk that the building would suffer further deterioration or be prone to vandalism making it still more difficult to use at some future date. It is unlikely that such an approach would generate a capital receipt and the council would need to continue to meet the 'holding' costs of the vacant premises to allow the time for community based proposals to be developed and considered.

28. If the council were minded to retain the bandstand for its own use then it would need to invest in the property in order that it could be used for a defined purpose. Presently no use for the building has been identified by any service department and there is a risk that, even if the council chose to fund the required improvement works that it would not be able to identify a suitable use of the building.

## EVALUATION

29. The Framework for Change – Independent Priorities document proposed to, “halt all asset disposals ....that are not already contractually binding, until we have completed our root and branch review of all services and functions”. The council has however been progressing a number of property disposals in accordance with its previous policies and practice and which were started before the election. In these disposals the council has engaged with potential third party purchasers of its assets and it is therefore important that individual decisions are made about the progress of all of the disposals in progress so that the council is able to demonstrate in a clear and transparent manner how it has come to a decision about the future direction of each proposed disposal. The possible disposal of Sandham Bandstand is one such disposal.
30. The former Sandham bandstand site was declared surplus by the council in 2011. It is in need of significant investment to repair and make it fit for use although there is some doubt as to whether there remains the need for a bandstand alongside as busy road. The need for the council to retain and use the facility was considered before it was formally declared surplus in 2011 and on the basis that no use could be identified for the building it was agreed to dispose of the property on the open market.
31. The availability of the property has been marketed widely for a period in excess of six months and in light of the continued uncertainty across the property market and the difficult economic climate it is the view of the council’s advisors that a higher offer for the site is unlikely to be received. Therefore if Members wish to dispose of the property then the offer of the party in the strongest position to proceed as set out in the appendix is felt to be the best that could be achieved.
32. It is possible there may be an alternative use for the site to be retained and operated for the benefit of the community. However since the property was declared surplus the council has not received any significant proposals for alternative uses of the site. The council continues to fund the costs of holding the vacant premises and may still need to incur on-going revenue costs associated with its responsibilities as landlord for the property should a disposal to a community based organisation be identified.

## RECOMMENDATION

33. On the basis of the information contained in this report it is recommended that the council adopts options (a) and (e) and that it agrees to:

(a) - Dispose of the property on a 125 year lease to the party which is in the strongest position to proceed (as set out in the appendix)

### AND

(e) - Disapply the provisions of "Call In"

## APPENDICES ATTACHED

34. APPENDIX - Compliant Bids Received - CONFIDENTIAL - Exempt from disclosure by virtue of paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 (As Amended) because it, "relates to financial or business affairs of any particular person", (including the authority holding that information)

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